

Subject: Jack London Square

Date: Sunday, February 5, 2017 at 4:53:37 PM Pacific Standard Time

From: Bob Sikora

To: info@bcdc.ca.gov, adrienne.klein@bcdc.ca.gov

CC: willma.chan@acgov.org, melrgilmore@gmail.com, David Lewis

Zachary Wasserman, Chair, and Commissioners
S.F. Bay Conservation and Development Commission

Dear Sirs:

Having grown up and lived in the SF Bay Area all my life, I have been appalled for years by the Scott's Restaurant blatant appropriation of public shoreland at Jack London Square.

Being an acquaintance of Jack London's daughter, Joan, in my youth, it has always been somewhat heartbreaking to visit the Square, knowing that Joan must be turning over in her grave not to mention Jack London himself, who in life was before my time.

I urge the commission to maintain evenhandedness and enact the staff's enforcement decision involving the proposed Cease and Desist and Civil Penalty Order No. CDO 2017.01:Scott's Jack London Seafoods, Inc. and the Port of Oakland..

Robert Sikora
Alameda, CA

Subject: common sense-- Scott's fine

Date: Sunday, February 5, 2017 at 8:52:44 AM Pacific Standard Time

From: Kristine Kern

To: info@bcdcc.ca.gov

Dear Conservation and Dev Commission:

I am a resident of Jack London Square, living at 311 2nd Street, #807, Oakland, CA 94607. I have no interest in this other than I read a story about the fine and feel like we're where we are with a crazy president because of backlash against governmental regulation.

So I ask you to please use common sense in revisiting the fine you've assessed against Scotts Seafood. The business is doing what it can to survive; you have a job to protect the public interest. It seems you should be able to find some common ground. And a fine of \$841,000 is ridiculously large.

Thanks for your consideration.
Kristine Kern
646 675 3242

The Mercury News

Oakland restaurant faces \$841K fine over shoreline dispute



A pavilion built by and adjacent to Scott's Restaurant in Jack London Square is photographed in Oakland, Calif., on Saturday, Feb. 4, 2017. The public open space can be used as an events center by the restaurant, when metal walls are positioned into place to create an enclosure. The San Francisco Bay Conservation and Development Commission is proposing a \$1.3 million penalty against Scott's for improper and unauthorized expansion and operation of the pavilion. (Anda Chu/Bay Area News Group)

By [Denis Cuff](#) | dcuff@bayareanewsgroup.com |

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OAKLAND — The popular Scott's Seafood Restaurant in Jack London Square is fighting an \$841,000 environmental fine in a case that has fanned debate about public access to the San Francisco Bay shoreline.

Representatives of Scott's Seafood Restaurant accuse the staff of the San Francisco Bay Development Commission of being overzealous for proposing such a high fine in response to additions to an outdoor pavilion the restaurant uses for parties, weddings, fundraisers and other events.

Canvas walls were replaced with retractable metal walls; a metal door and storage unit was added, and a roof was extended without a commission permit.

"This penalty is way out of line," said Michael Verna, an attorney representing Scott's. "They did not put pollute the bay. They did not harm wildlife. This is bureaucracy run amok. This is crazy."

Previously, the largest penalty the commission has ever issued for something not involving harm to water, fish or wetlands was \$40,000, Verna said.

But some critics says a big fine is warranted for a restaurant that decreased public access to the bay by making unauthorized changes to the pavilion. The restaurant also held many more private events a year than permitted, the commission concluded.

"Access to the San Francisco Bay Shoreline is a right to be enjoyed by all the public, and the restaurant diminished it," said David Lewis, executive director of the Save San Francisco Bay. "It would send the wrong message to the Bay Area if there were not serious penalties for these egregious violations."

In a report Friday, the commission staff recommended the penalty be adopted by the full 27-member commission. A commission committee is scheduled to consider the penalty Feb. 16.

The Bay Commission was created in the 1960s to stop widespread filling of the bay, and to encourage public access to the shoreline. Only about six miles were accessible in the 1960s. But that number has grown to more than 300 miles with the addition of shoreline trails, parks, and permits requiring waterfront businesses to provide access near them.

Scott's secured a commission permit in 1997 to establish an adjacent pavilion with canvas walls for holding a maximum of 73 public events a year. The walls were to be removed other days and chairs provided, enabling the public to relax, smell the seawater, and view the boats and ships coming in and out of the Oakland Estuary.

But Scott's modified the pavilion in 2013 without commission permits, and it also held more than 73 events a year for several years, commission staffers wrote in an administrative complaint in December. Scott's also parked promotional cars and stored equipment in the public open space, and failed to put chairs as called for.

"Scott's effectively annexed a public open space," said Keith Miller, the owner of a neighboring California Canoe and Kayak. "I'm not against the pavilion, but the restaurant owner didn't play by the rules, and it means the public has less access to the shoreline"

While people can walk around the pavilion and squeeze through to reach the waterfront, the tight fit discourages public use of the waterfront, he said. When the pavilion walls are up, views of the scenic waterfront are blocked, Miller added.

Verna, the restaurant attorney, said Scott's owner Ray Gallagher replaced the canvas walls with retractable metal ones to save time; it took one day to raise the walls and another to remove them.

That improvement, Verna said, means the pavilion is available for public use more often.

Verna said paying such a large fine would force the restaurant to lay off workers and could force it to close the pavilion, which can accommodate 350 people seated and 600 standing.

"Scott's has brought people to the bay for years," he said. "It's been an anchor to Jack London Square."

Ygnacio De La Fuente, a former Oakland city councilman, said Scott's should get some credit because many of the pavilion events benefit nonprofit groups. And Scott's, he said, often waives pavilion rental fees for those charities.

"They are one of the few restaurants that will donate the venue for charitable events to benefit the community," he said.

As a nonpaid mediator, De La Fuente helped secure a tentative settlement between the commission staff and Scott's for the restaurant to pay a \$250,000 fine and be granted permission to hold more events in the pavilion.

The commission's enforcement committee approved the deal, but the commission in November rejected it after critics said \$250,000 was too small a penalty and objected to more events in the pavilion.

Verna said the proposed \$841,000 penalty is unfair in part because it includes amounts for allegations years ago such as not putting out chairs and tables for the public to use when there were no events at the pavilion.

"The commission knew of these issues for years," Verna said, "and did nothing about it."

To view information about the Scott's penalty, visit <http://bit.ly/2kbvGDV> on the commission site.

bizjournals.com

Oakland's Scott's Seafood Restaurant in Jack London Square slapped with \$841K fine in tug-of-war over shoreline - San Francisco Business Times

Riley McDermid

Scott's Seafood Restaurant in Jack London Square has been ordered to pay a \$841,000... [more](#)

Oakland stalwart [Scott's Seafood Restaurant](#) in Jack London Square has been ordered to pay a \$841,000 environmental fine for allegedly restricting access to the shoreline and holding more events in a public space than they were permitted to.

The San Francisco Bay Development Commission proposed the fine after earlier negotiations, which would have capped any potential fine at \$250,000 fine and granted permission for more events, fell through.

Scott's Seafood Restaurant in Jack London Square has been ordered to pay a \$841,000... [more](#)

[Michael Verna](#), an attorney representing Scott's, said paying the fine would almost certainly result in some workers being laid off, and at least some revenue being lost, because the pavilion in question currently holds 350 people seated and 600 standing.

"This penalty is way out of line," said [Michael Verna](#), an attorney representing Scott's, [told the East Bay Times](#). "They did not put pollute the bay. They did not harm wildlife. This is bureaucracy run amok. This is crazy."

Increased access to the Bay and a growing public interest in exploring the area has lead to increased scrutiny on the businesses and facilities that are located directly on the shoreline.

"The Bay Commission was created in the 1960s to stop widespread filling of the bay, and to encourage public access to the shoreline. Only about six miles were accessible in the 1960s," the paper reports. "But that number has grown to more than 300 miles with the addition of shoreline trails, parks, and permits requiring waterfront businesses to

provide access near them."

In 1997, Scott's received a permit to put in a pavilion that would host no more than 73 public events a year, with removable walls that let the public watch the Oakland Estuary. Neighbors now complain that Scott's parks cars in that public space and made access to the shore so narrow that it discourages many people from attempting to reach it.

"Scott's effectively annexed a public open space," [Keith Miller](#), the owner of a neighboring California Canoe and Kayak, told the paper. "I'm not against the pavilion, but the restaurant owner didn't play by the rules, and it means the public has less access to the shoreline."

A spokesperson for Scott's did not immediately respond to a request for comment on Monday. But proponents of the fine told the paper they believe it sends the right message.

"Access to the San Francisco Bay Shoreline is a right to be enjoyed by all the public, and the restaurant diminished it," David Lewis, executive director of the Save San Francisco Bay, [told the paper](#). "It would send the wrong message to the Bay Area if there were not serious penalties for these egregious violations."

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(*Riley covers breaking news and oversees all digital content.*
